

AFFIDAVIT OF DAVID E. MACK

NOW COMES the Affiant, David E Mack of Dallas, Texas who is over the age of 21 years, competent to testify and has not been convicted of a felony or misdemeanor of moral turpitude or any felony criminal offense and declares as follows under penalty of perjury regarding case 4:15-cv-330 in the Eastern District of Texas:

1. That Affiant/Plaintiff is the owner of and in possession of the Samsung wireless phone that phone number 682-560-1675 is assigned to as shown in Exhibit 1 to Plaintiff/Affiant's Second Amended Complaint.
2. That Affiant/Plaintiff personally paid for the airtime for his Samsung wireless service with Tracfone for number 682-560-1675 and in doing so obtained the receipts for airtime shown as Exhibit 2 to Affiant/Plaintiff's Second Amended Complaint.
3. That Affiant/Plaintiff has been the owner of and had service on the Samsung wireless phone shown in Exhibit 1 to Affiant/Plaintiff's Second Amended Complaint since July 15, 2013 and the phone has been in his custody and control at all times since that date to the present time.
4. That the call received by the Affiant/Plaintiff on January 7, 2014 at 2:04 PM on his wireless phone number 682-560-1675 was not made for an emergency purpose and Affiant/Plaintiff had not given Midland consent in **any** form to call that number.
5. Affiant/Plaintiff received previous calls to his wireless phone number 682-560-1675 from 877-237-0512 without his express consent where no message was left.

6. That Affiant/Plaintiff **at or near the time of all calls** received to his wireless phone **from 877-237-0512 and other numbers** made handwritten notes as to the date, time, number calling, whether he answered, whether a live person was on the line or an automated message was received in addition to identification of the caller.
7. That the call received by Affiant/Plaintiff on his wireless phone number 682-560-1675 on January 7, 2014 at 2:04 PM was not the first call he received from 877-237-0512 but was actually the **77th** call out of a total of 113 calls he eventually received from that number on his wireless phone.
8. That when Affiant/Plaintiff answered the call received on January 7, 2014 at 2:04 PM from 877-237-0512 he stated “quit calling this number” twice and terminated the call.
9. That Affiant/Plaintiff never had any previous contact with Midland Credit Management, Inc. in any form, verbal, written or electronic and has never had any business relationship with it at any time.
10. Affiant/Plaintiff is a non-debtor and there is no arbitration agreement in effect between Affiant/Plaintiff and any other party on any matter including but not limited to any debt.
11. That Affiant/Plaintiff has never forwarded or “ported” calls from any other number to his wireless phone number 682-560-1675 and any calls received on 682-560-1675 come directly from the calling party.

Notary's Verification on Next Page

NOTARY'S VERIFICATION

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

On this day personally came before me the above-named Affiant, who proved his identity to me to my satisfaction, and he acknowledged his signature on this Affidavit in my presence and stated that he did so with full understanding that he was subject to the penalties of perjury.

AFFIRMATION

I hereby affirm that I prepared and have read this Affidavit and that I believe the foregoing statements in this Affidavit to be true and correct. I hereby further affirm that the basis of these beliefs is my own direct knowledge of the statements described herein.

Further the Affiant sayeth naught.

Signed in Dallas, Texas
May 11, 2015



David E Mack

Name of Notary

Jessica T. Pickett

Signature of Notary

Jessica T. Pickett

seal

My Commission Expires

July 23, 2018

